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Via Certified Mail –
Return Receipt Requested

April 6, 2018

APR 25 2018

Kevin Brown
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Ventura Water
P.O. Box 2299
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Ventura, CA 93002-2299

Dan Paranick
Interim City Manager
Members of the City Council
City of Ventura
501 Poli Street
Ventura, CA 93002

Managing Agent
Ventura Water Reclamation Facility
1400 Spinnaker Drive
Ventura, CA 93001

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act (Clean Water Act)

Dear Mr. Brown, Mr. Paranick, Members of City Council, and Managing Agent

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 et seq., that River Watch alleges are occurring through the ownership and/or operation of the Ventura Water Reclamation Facility ("Facility") and its associated sewer collection system.

River Watch hereby places the City of Ventura ("the City"), as owner and operator of the Facility and associated collection system, on notice that following the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a),

to bring suit in the U.S. District Court against the City for continuing violations of an effluent standard or limitation pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board, Los Angeles Region, Water Quality Control Plan ("Basin Plan"), as the result of violations of the City's National Pollution Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, who has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition such that violation of a permit limit places a discharger in violation of the CWA. River Watch alleges the City is in violation of the CWA by violating the terms of its NPDES permit.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board ("SWRCB") and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the City's operations in the region at issue in this Notice is the Regional Water Quality Control Board, Los Angeles Region ("RWQCB-LA").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* CWA § 505, 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the City with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The Specified Standard, Limitation or Order Alleged to Have Been Violated

The order violated is NPDES No. CA0053651, SWRCB Order No. R4-2013-0174, which superceded SWRCB Order No. R4-2008-0011. River Watch has identified specific violations of the City's NPDES permit including raw sewage discharges and failure to either comply with or provide evidence that it has complied with all the terms of its NPDES permit.

2. The Activity Alleged to Constitute a Violation

River Watch contends that from April 1, 2013 through April 1, 2018, the City has violated the Act as described in this Notice. River Watch contends these violations are continuing or have a likelihood of occurring in the future. The location or locations of the various violations alleged in this Notice are identified in records created and/or maintained by or for the City which relate to its ownership and operation of the Facility and associated sewer collection system as described in this Notice.

A. Sanitary Sewer Overflows, Inadequate Reporting, and Failure to Mitigate Impacts

I. Sanitary Sewer Overflow Occurrences

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above ground from the collection system prior to reaching the Facility, are alleged to have occurred both on the dates identified in California Integrated Water Quality System ("CIWQS") Interactive Public SSO Reports and on the dates when no reports were filed with CIWQS by the City, all in violation of the CWA.

The City's aging sewer collection system has historically experienced high inflow and infiltration ("I/I") during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure, causing SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters including Arundell Canyon, Pierpont Bay, and the Santa Clara River Estuary. All of the waterways lead to the Pacific Ocean and all are waters of the United States.

A review of the CIWQS Spill Public Report – Summary Page identifies the "Total Number of SSO locations" as 90, with 46,884 "Total Vol. of SSOs (gal)" discharged into the environment. Of this total volume, 24,800 gallons are reported as being recovered while the City admits at least 11,764 gallons, or approximately 25% of the total, reached a surface water. This discharge poses both a nuisance pursuant to California Water Code § 13050(m) and an imminent and substantial endangerment to health and the environment.

A review of the CIWQS SSO Reporting Program Database specifically identifies 6 recent SSOs reported as having reached a water of the United States, identified by Event ID numbers 840959, 822321, 816523, 815823, 812780, and 805087. All of the reported violations lack detailed information of the effects and explanation of spill. Included in the 6 reported SSOs are the following incidents:

- October 19, 2017 (Event ID# 840959) – an SSO estimated at 2,900 gallons occurred at Carlyle and Mathews Streets (Coordinates 34.2711, -119.15859). The cause is unknown as the SSO is reported as an "und" cause. Out of this amount, 2,500 gallons are reported recovered while 2,900 gallons are reported as reaching an "und" surface water. For items "15

– Final Spill destination" and "16 – Explanation of final spill destination" the City reports "und" or "undefined."

- June 11, 2015 (Event ID # 815823) – an SSO estimated at 400 gallons occurred at 210 Dakota Drive (Coordinates 34.30913 -119.29203). Per this report, 400 gallons reached a surface water. For items "15 – Final Spill destination" and "16 – Explanation of final spill destination" the City reports "und" or "undefined."

- March 28, 2014 (Event ID # 805087) – an SSO estimated at 7,500 gallons occurred at Marina Park (Coordinates 34.253114 -119.267094). Out of the total estimated volume, 1,000 gallons are reported as being recovered, 500 gallons are reported as reaching land, and 6,500 gallons are reported as reaching an "und" surface water. For items "15 – Final Spill destination" and "16 – Explanation of final spill destination" the City reports "und" or "undefined."

All of the above-identified discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as discharges of a pollutant (sewage) from a point source (sewer collection system) to a water of the United States without complying with any other sections of the Act. Further, these alleged discharges are violations of the City's NPDES Permit, specifically Order No. R4-2013-0174 which states in Section III. Discharge Prohibitions:

> B. Discharge of wastewater at a location different from that described in this Order is prohibited.
>
> C. The bypass or overflow of untreated wastewater or wastes to surface waters or surface water drainage courses is prohibited, except as allowed in Standard Provision I.G. of Attachment D, Standard Provisions.
>
> E. The Discharger shall not cause degradation of any water supply, except as consistent with State Water Board Resolution No. 68-16.

The City's alleged SSOs occurring between March 12, 2013 and January 1, 2014 are violations of Order No. R4-2008-0011which states in Section III. Discharge Prohibitions:

> B. Discharge of wastewater at a location different from that described in this Order is prohibited.
>
> C. The bypass or overflow of untreated wastewater or wastes to surface waters or surface water drainage courses is prohibited, except as allowed in Standard Provision I.G. of Attachment D, Standard Provisions.
>
> E. The Discharger shall not cause degradation of any water supply.

River Watch contends these violations are continuing in nature or have a likelihood of occurring in the future.

ii. Inadequate Reporting of Discharges

a. Incomplete and Inaccurate SSO Reporting

Full and complete reporting of SSOs is essential to gauging their impact upon public health and the environment. The City's SSO Reports, which should reveal critical details about each of these SSOs (including which SSOs reach which specific surface water), lack responses to specific questions that would present sufficient information to accurately assess and ensure these violations would not recur, as described above.

In addition, River Watch's expert believes many of the SSOs reported by the City as not reaching a surface water did in fact reach surface waters, and those reported as reaching surface waters did so in greater volume than stated. River Watch's expert also believes that a careful reading of the time when the SSO began, the time the City received notification of the SSO, the time of its response, and the time at which the SSO ended, appear as unlikely estimations. For example:

- October 14, 2017 (Event ID #840807) – the spill start time is reported as 09:30 am, agency notification time is reported as 09:40 am, operator arrival time and spill end time are not identified. The estimated total volume of spill is 10,000 gallons of which 3,500 is reported as recovered, while 10,000 is reported as reaching land.

- July 10, 2015 (Event ID #816523) – the spill start time is reported as 8:50 am and agency notification time is reported as 8:51 am. The operator arrival time and spill end time are not reported. The estimated total volume of spill is 800 gallons, 600 of which are reported as recovered, while 600 gallons are reported as reaching land.

- January 30, 2015 (Event ID #812780) – the spill start time and agency notification time are both reported to be 10:30 am. The operator arrival time and spill end time are not reported. The reported estimated total volume of spill is 400 gallons, 400 of which was apparently recovered, while 100 gallons reached land.

Given the unlikely accuracy of the times and intervals provided in these reports it is difficult to consider the stated volumes as accurate. Many of the City's SSO reports list the spill start and agency notification times as exactly the same time. Without correctly reporting the spill start and notification times, and by failing to report the operator arrival time and spill end time, there is a danger that the duration and volume of a spill will be underestimated.

b. Failure to Warn

There is no indication that the City posts warning signs for any of its SSOs that presumably reached a surface water. River Watch contends the City is understating the significance of the

impacts of its CWA violations by failing to post health warning signs for any SSOs which pose an imminent and substantial endangerment to health or the environment regardless of location.

iii. Failure to Mitigate Impacts

River Watch contends the City fails to adequately mitigate the impacts of its SSOs. The City is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide WDR requires the City to take all feasible steps, and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

A critical remedial measure is the performance of adequate sampling to determine the nature and impact of the release. As the City is severely underestimating SSOs which reach surface waters, River Watch contends the City is not conducting sampling on many SSOs.

The EPA's "Report to Congress on the Impacts of SSOs" identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous biological habitat areas exist within areas of the City's SSOs. Neighboring waterways include sensitive areas for the Monarch butterfly, steelhead trout, three-spine stickleback, red-legged frog, arroyo toad, coast horned lizards, the rare southwestern willow flycatcher, and the western yellow-billed cuckoo. There is no recent record of the City performing any analysis of the impact of SSOs on habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies containing biological habitat from the impacts of SSOs.

B. Sewer Collection System Subsurface Discharges Caused by Underground Exfiltration

It is a well-established fact that exfiltration caused by structural defects in a sewer collection system and associated ponds, known as "wildlife ponds", result in discharges to adjacent surface waters either directly or via underground hydrological connections. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

River Watch contends untreated or partially treated sewage is discharged from the City's collection system and associated wildlife ponds either directly or via hydrologically-connected groundwater to surface waters including Santa Clara River Estuary, Arundell Canyon, and Pierpont Bay, all which lead to the Pacific Ocean. Due to SSOs, surface waters become contaminated with pollutants, including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens and other human markers such as caffeine. Any exfiltration found from the City is a violation of its NPDES permit and thus a violation of the CWA.

C. Violations of Effluent Limitations and Monitoring Requirements

A review of the City's Self-Monitoring Reports ("SMRs") identifies the following violations of effluent limitations imposed under the City's NPDES Permit[1]:

I. Reported Violations

a. Violations of Effluent Violations

The SMRs identify **13** violations of Order No. R4-2013-0174, Section IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations – Discharge point Effluent Transfer Station M-001, 1 Final Effluent Limitations – Discharge Point Effluent Transfer Station M-001, as described below:

4 - Effluent Limitation Violations, "n. The wastes discharged to water courses shall at all times be adequately disinfected. For the purpose of this requirement, the wastes shall be considered adequately disinfected if the median number of total coliform bacteria in the disinfected effluent does not exceed a Most Probable Number (MPN) or Colony Forming Units (CFU) of 2.2 per 100 milliliters, and the number of total coliform bacteria does not exceed an MPN or CFU of 23 per 100 milliliters in more than one sample within any 30-day period.":

(02/09/2016) Total Coliform Not to exceed a specific limit more than once within any 30-day period. Limit is 23 MPN/100 mL and reported value was 80 MPN/100 mL at M-001. Violation ID: 1005984

(02/10/2015) Total Coliform Not to exceed a specific limit more than once within any 30-day period. Limit is 23 MPN/100 mL and reported value was 900MPN/100 mL at M-001. Violation ID: 993596

(01/31/2015) Total Coliform Not to exceed a specific limit more than once within any 30-day period. Limit is 23 MPN/100 mL and reported value was 50 MPN/100 at M-001 Violation ID: 987876

[1] The RWQCB issued R4-2015-0148, Administrative Civil Liability ("ACL") for Unauthorized Discharge of Effluent Violations/ Reporting Violations. The ACL, inposing civil penalties, does not impose remediation requirements. The violations identified in this Notice include both those addressed in the ACL and those occurring on and after the date of the ACL.

(09/23/2014) Total Coliform Not to exceed a specific limit more than once within any 30-day period. Limit is 23 MPN/100 mL and reported value was 170 MPN/100 mL at Effluent Transfer Station (All constituents but flow).
Violation ID: 979796

4 - Effluent Limitation Violations, "n. The wastes discharged to water courses shall at all times be adequately disinfected. …No sample shall exceed an MPN or CFU of 240 total coliform bacteria per 100 milliliters":

(02/08/2016) Total Coliform Single Sample Maximum limit is 240 MPN/100 mL and reported value was 300 MPN/100 mL at M-001
Violation ID: 1005985

(02/10/2015) Total Coliform Single Sample Maximum limit is 240 MPN/100 mL and reported value was 900 MPN/100 mL at M-001
Violation ID: 989221

(01/29/2015) Total Coliform Single Sample Maximum limit is 240 MPN/100 mL and reported value was 300 MPN/100 mL at M-001
Violation ID: 987880

(02/08/2016) Total Coliform Instantaneous Maximum limit is 240 MPN/100 mL and reported value was 300 MPN/100 mL at M-001
Violation ID: 1005985

5 - Effluent Limitation Violations, "n. The wastes discharged to water courses shall at all times be adequately disinfected. …The median value shall be determined from the bacteriological results of the last 7 days for which an analysis has been completed.":

(02/04/2015) Total Coliform 7-Day Median limit is 2.2 MPN/100 mL and reported value was 7 MPN/100 mL at M-001
Violation ID: 989218

(02/03/2015) Total Coliform 7-Day Median limit is 2.2 MPN/100 mL and reported value was 7 MPN/100 mL at M-001
Violation ID: 989215

(02/02/2015) Total Coliform 7-Day Median limit is 2.2 MPN/100mL and reported value was 7 MPN/100 mL at M-001
Violation ID: 989222

(02/01/2015) Total Coliform 7-Day median limit is 2.2 MPN/100 mL and reported value was 7 MPN/100 mL at M-001
Violation ID: 993629

(01/31/2015) Total Coliform 7-Day Median limit is 2.2 MPN/100 mL and reported value was 7 MPN/100 mL at M-001
Violation ID: 987881

The SMRs identify **16** violations of Order No. R4-2013-0174, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations – Discharge Point Effluent Transfer Station M-001, 1. Final Effluent Limitations – Discharge Point Effluent Transfer Station M-001, as described below:

8 - Effluent Limitation Violations, "o. For the protection of the water contact recreation beneficial use, … (a)an average of 2 Nephelometric turbidity units (NTUs) within a 24-hour period":

(02/02/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 3.05 NTU at M-001
Violation ID: 989214

(01/31/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 2.48 NTU at M-001
Violation ID: 987871

(01/30/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 4.28 NTU at M-001
Violation ID: 987878

(01/29/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 4.10 NTU at M-001
Violation ID: 987870

(01/28/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 4.81 NTU at M-001
Violation ID: 987869

(01/27/2017) Turbidity 24-hour Average limit is 2 NTU and reported value was 8.75 NTU at M-001
Violation ID: 987877

(07/15/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 2.55 NTU at M-001
Violation ID: 995954

(01/26/2015) Turbidity 24-hour Average limit is 2 NTU and reported value was 9.78 NTU at M-001
Violation ID: 987872

8 - Effluent Limitation Violations, o. "For the protection of the water contact recreation beneficial use,…(b) 5 NTUs more than 5 percent of the time (72 minutes) within a 24-hour period":

(02/03/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 130 NTU at M-001
Violation ID: 989219

(02/02/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 162 NTU at M-001
Violation ID: 989217

(02/01/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 56 NTU at M-001
Violation ID: 989220

(01/31/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 10 NTU at M-001
Violation ID: 987874

(01/30/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 10 NTU at M-001
Violation ID: 987882

(01/28/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 10 NTU at M-001
Violation ID: 987879

(01/27/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 10 NTU at M-001
Violation ID: 987883

(01/26/2015) Turbidity 24-hour Average limit is 5 NTU and reported value was 10 NTU at M-001
Violation ID: 987873

The SMRs identify **4** violations of Order No. R4-2013-0174, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations – Discharge Point Effluent Transfer Station M-001, 1. Final Effluent Limitations – Discharge Point Effluent Transfer Station M-001, j. , Table 4. Effluent Limitations, as described below:

2 - Effluent Limitation Violations, Nitrate + Nitrate as Nitrogen monthly concentration shall not exceed 10 mg/L:

(04/30/2015) Nitrate, Total (as N) Monthly Average limit is 10 mg/L and reported value was 11.4 mg/L at M-001
Violation ID: 991784

(04/30/2015) Nitrate Plus Nitrate (as N) Monthly Average (Mean) limit is 10 ml/L and reported value was 11.4 ml/L at M-001
Violation ID: 991786

2 - Effluent Limitation Violations, Total Residual Chlorine shall not exceed 0.1 mg/L:

(02/02/2015) Chlorine, Total Residual Daily Maximum limit is 0.1 mg/L and reported value was 0.71 mg/L at M-001
Violation ID: 989224

(10/09/2014) Chlorine, Total Residual Daily Maximum limit is 0.1 mg/L and reported value was 0.35 mg/L at M-001
Violation ID: 993594

The SMRs identify **5** violations of Order No. R4-2013-0174, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations – Discharge Point Effluent Transfer Station M-001, 1. Final Effluent Limitations – Discharge Point Effluent Transfer Station M-001, j., Table 4. Effluent Limitations, as described below:

3 - Effluent Limitation Violations, Selenium Total Daily Maximum limit shall not exceed 8.2 ug/L:

(05/30/2014) Selenium, Total Daily Maximum limit is 8.2 ug/L and reported value was 8.6 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971819

(05/29/2014) Selenium, Total Daily Maximum limit is 8.2 ug/L and reported value was 13.40 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971824

(05/27/2014) Selenium, Total Daily Maximum limit is 8.2 ug/L and reported value was 15.5 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971821

2 - Effluent Limitation Violations, Selenium Total Daily Maximum limit shall not exceed 0.62 lbs/day:

(05/29/2014) Selenium, Total Daily Maximum limit is 0.62 lb/day and reported value was 0.77 lb/day at M-001
Violation ID: 993591

(05/27/2014) Selenium, Total Daily Maximum limit is 0.62 lb/day and reported value was 0.887 lb/day at M-001
Violation ID: 993576

The SMRs identify **14** violations of Order No. R4-2013-0174, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations – Discharge Point Effluent Transfer Station M-001, 1. Final Effluent Limitations – Discharge Point Effluent Transfer Station M-001, j. , Table 4. Effluent Limitations, as described below:

2 - Effluent Limitation Violations, Nickel shall not exceed the Total Monthly Average limit of 0.54 lbs/day:

(05/31/2014) Nickel, Total Recoverable Monthly Average (Mean) limit is 0.54 lbs/day and reported value was 2.28 lbs/day at M-001
Violation ID: 971825

(02/28/2014) Nickel, Total Recoverable Monthly Average limit is 0.54 lbs/day and reported value was 0.623 lbs/day at Effluent Transfer Station (All constituents but flow)
Violation ID: 968781

5 - Effluent Limitation Violations, Nickel shall not exceed the Total Daily Maximum limit of 1.4 lbs/day:

(05/30/2014) Nickel, Total Daily maximum limit is 1.4 lbs/day and reported value was 3.65 lbs/day at M-001
Violation ID: 993593

(05/29/2014) Nickel, Total Daily Maximum limit is 1.4 lbs/day and reported value was 3.99 lbs/day at M-001
Violation ID: 993592

(05/28/2014) Nickel, Total Daily Maximum limit is 1.4 lbs/day and reported value was 2.78 lbs/day at M-001
Violation ID: 993590

(05/27/2014) Nickel, Total Daily Maximum limit is 1.4 lbs/day and reported value was 2.75 lbs/day at M-001
Violation ID: 993597

(05/07/2014) Nickel, Total Daily Maximum limit is 1.4 lbs/day and reported value was 2.07 lbs/day at M-001
Violation ID: 993572

5 - Effluent Limitation Violations, Nickel shall not exceed the Total Daily Maximum limit of 18.8 ug/L:

(05/30/2014) Nickel, Total Daily Maximum limit is 18.8 ug/L and reported value was 63.3 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971817

(05/29/2014) Nickel, Total Daily Maximum limit is 18.8 ug/L and reported value was 69.8 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971816

(05/28/2014) Nickel, Total Daily Maximum limit is 18.8 ug/L and reported value was 47.90 ug/L at Effluent Transfer Station (All constituents flow)
Violation ID: 971823

(05/27/2014) Nickel, Total Daily Maximum limit is 18.8 ug/L and reported value was 48.10 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971822

(05/07/2014) Nickel, Total Daily Maximum limit is 18.8 ug/L and reported value was 36.9 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971820

2 - Effluent Limitation Violations, Nickel shall not exceed the Total Monthly Average limit of 7.2 ug/L:

(05/31/2014) Nickel, Total Monthly Average limit is 7.2 ug/L and reported value was 41.0 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 971818

(02/28/2014) Nickel, Total Monthly Average limit is 7.2 ug/L and reported value was 10.6 ug/L at Effluent Transfer Station (All constituents but flow)
Violation ID: 966989

The SMRs identify **2** violations of Order No. R4-2013-0174, IV Effluent Limitations and Discharge Specifications, A. Effluent Limitations , 1. Final Effluent Limitations – Effluent Transfer Station M-001, r. Chronic Toxicity Trigger and Requirements, as described below:

2 - Effluent Limitation Violations, Chronic Toxicity Monthly Average (Mean) limit is 1.0 TUc:

(December 13, 2017) Chronic Toxicity Monthly Average (Mean) Limit is 1.0 TUc and reported value was 5.56 TUc at M-001.
Violations ID: 1039656

(January 31, 2018) Chronic Toxicity Monthly Average (Mean) Limit is 1.0 TUc and reported value was 4.30 TUc at M-001.
Violations ID: 1040322

b. Violations for Deficient Monitoring

The SMRs identify **54** violations of Order No. R4-203-0174, Attachment E – Monitoring and Reporting Program, as describe below:

(12/21/2017) - Violation ID: 1039657
(11/18/2017) - Violation ID: 1037111
(11/14/2017) -Violation ID: 1037112
(09/20/2017) - Violation ID: 1034590
(08/04/2017) - Violation ID: 1033159
(05/27/2017) - Violation ID: 1027993
(05/21/2017) - Violation ID: 1027992
(04/27/2017) - Violation ID: 1026644
(04/10/2017) - Violation ID: 1026645
(04/13/2017) - Violation ID: 1026646
(02/10/2017) - Violation ID: 1023436
(12/15/2016) - Violation ID: 1020508
(12/13/2016) - Violation ID: 1016836
(12/13/2016) - Violation ID: 1016835
(11/16/2016) - Violation ID: 1017835
(11/16/2016) - Violation ID: 1017832
(11/07/2016) - Violation ID: 1017833
(11/07/2016) - Violation ID: 1017834
(10/02/2016) - Violation ID: 1016770
(09/08/2016) - Violation ID: 1015274
(09/02/2016) - Violation ID: 1015273
(07/07/2016) - Violation ID: 1012836
(06/26/2016) - Violation ID: 1011610
(05/12/2016) - Violation ID: 1010324
(05/02/2016) - Violation ID: 1010325
(12/20/2015) - Violation ID: 1003154
(11/14/2015) - Violation ID: 1001880
(11/13/2015) - Violation ID: 1001876
(11/05/2015) - Violation ID: 1001878
(11/03/2015) - Violation ID: 1001879
(11/03/2015) - Violation ID: 1001877
(10/25/2015) - Violation ID: 1000386
(10/25/2015) - Violation ID: 1000388
(10/21/2015) - Violation ID: 1000385
(10/21/2015) - Violation ID: 1000393

(10/19/2015) - Violation ID: 1000390
(10/17/2015) - Violation ID: 1000384
(10/17/2015) - Violation ID: 1000392
(10/05/2015) - Violation ID: 1000383
(10/05/2015) - Violation ID: 1000389
(10/04/2015) - Violation ID: 1000391
(10/01/2015) - Violation ID: 1000382
(10/01/2015) - Violation ID: 1000387
(09/05/2015) - Violation ID: 998971
(09/05/2015) - Violation ID: 998969
(09/01/2015) - Violation ID: 998970
(08/29/2015) - Violation ID: 997888
(07/07/2015) - Violation ID: 995955
(05/08/2015) - Violation ID: 993265
(05/08/2015) - Violation ID: 993264
(04/26/2015) - Violation ID: 991788
(04/03/2015) - Violation ID: 991785
(04/02/2015) - Violation ID: 991787

D. Violations of Receiving Water Limitations and Impacts to Beneficial Uses

The aquatic environment of the Santa Clara River Estuary has numerous beneficial uses as set forth in the RWQCB's Basin Plan including water contact recreation, estuarine habitat, marine habitat, wildlife habitat, fish spawning and migration, and preservation of rare and endangered species. The Santa Clara River, as well as its tributaries Arundell Canyon and Pierpont Bay, contain sensitive species and support important recreational value. The area around the Facility is home to rare and protected native fish which rely on the Santa Clara River and its tributaries for their very existence, including steelhead and the very rare unarmored three-spine stickleback. Six rare and protected amphibians also rely on the River and its tributaries for successful reproduction and persistence, including the red-legged frog and arroyo toad. In addition, nine rare and protected reptiles live in the watershed including coast horned lizards, pond turtles, and legless lizards.

Discharges in excess of receiving water and groundwater limitations reaching these waters cause pollution by unreasonably affecting the beneficial uses of these waters. The City's NPDES Permit specifically provides the following in Section V. Receiving Water Limitations:

A. Surface Water Limitations, "discharge shall not cause the following in receiving water:" The Permit then goes on to list 17 prohibitions.

B. Acute Toxicity Receiving WQO, "there shall be no acute toxicity in ambient waters as a result of wastes discharged."

C. Chronic Toxicity Receiving WQO, "there shall be no chronic toxicity in ambient waters as a result of wastes discharged."

D. Groundwater Limitations, "discharge shall not cause the underlying groundwater to be degraded, exceed WQOs, unreasonably affect beneficial uses, or cause a condition of pollution or nuisance."

River Watch finds insufficient information in the public record demonstrating the City has monitored for and complied with these receiving water standards, and is understandably concerned regarding the effects of discharges to beneficial uses of water applicable to the navigable waters identified in this Notice.

3. The Person or Persons Responsible for the Alleged Violation

The entity responsible for the alleged violations identified in this Notice is the City of Ventura, as owner and operator of the Ventura Water Reclamation Facility and its associated collection system, as well as those of the City's employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

4. The Location of the Alleged Violation

The City of Ventura is the owner Ventura Water which operates the Facility - a Publicly-Owned Treatment Works. The Facility discharges wastewater to the Santa Clara River Estuary. The mouth of the Santa Clara River is sometimes closed off by a sand bar so that a shallow lagoon - the Santa Clara River Estuary - is created. When the sand bar is breached, either by floodwaters or by mechanical means, the lagoon empties directly into the Pacific Ocean.

The Facility is a tertiary wastewater treatment plant with a design capacity of 14 million gallons per day ("mgd"). The design flow of 14 mgd is limited to 9 mgd discharge into the Santa Clara River Estuary. The Facility receives domestic, commercial, and industrial wastewater generated in the City by an estimated population of 105,000. Treatment at the Facility consists of wastewater processing, biosolids processing, and a pasteurization demonstration project. The treatment system consists of screening, grit removal, primary sedimentation, flow equalization, bio-augmentation re-aeration with full nitrification and denitrification, aeration with additional nitrification, activated sludge and mixed liquor recycling, secondary settling, pressurized tertiary filtration, chlorination with ammonia addition, and dichlorination. Concentrations of metals in the influent are generally controlled through the pretreatment program. Due to high concentrations of copper, lead, nickel, and zinc in the influent, the Facility improves metals removal by adding iron salt at the headworks. The biosolids system consists of primary sludge thickening, dissolved air flotation, secondary sludge thickening, anaerobic digestion, and dewatering.

Treated wastewater is discharged into the Santa Clara River Estuary (Discharge Point 001) through a series of city-owned ponds known as "wildlife ponds". Soil bottoms allow percolation. Approximately 1 mgd of the treated wastewater percolates from the wildlife ponds into perched groundwater, part of the Oxnard Groundwater Basin. The groundwater can exhibit artesian conditions when the freshwater table rises above sea level.

The Santa Clara River is the largest river system in Southern California remaining in a relatively natural state. It flows westerly for some 84 miles through Tie Canyon, Aliso Canyon, Soledad Canyon, Santa Clarita Valley, Santa Clara River Valley, and Oxnard Plain before discharging to the Pacific Ocean near the Ventura Harbor. The Santa Clara River and tributary system covers about 1,634 square miles. Major tributaries include Castaic Creek and San Francisquito Creek in Los Angeles County, and Sespe, Piru, and Santa Paula Creeks in Ventura County. Approximately 60 percent of the Santa Clara Watershed is located in Ventura County. The Watershed includes 27 native plant communities from mixed conifer forests to oak woodlands to coastal scrubs and saline emergent wetland plants. This phenomenal diversity of plant communities also sustains numerous rare plants and animals, including 14 very rare plant species and 3 very rare invertebrates including Monarch butterflies which live and reproduce along the River.

The Sespe Condor Sanctuary lies within the boundaries of the Watershed making the Santa Clara River and its watershed key for California condor recovery. More than 20 rare and endangered birds rely on the different habitats along the River and within the watershed. The riparian vegetation along the River and its tributaries are key breeding areas for migratory birds including the rare southwestern willow flycatcher and western yellow-billed cuckoo. At least 12 rare mammals including 5 bats species, badgers, and chipmunks call the Santa Clara River and other areas in the watershed home. Critical habitat has been federally designated for 10 threatened or endangered plants and animals in the Santa Clara River watershed.

5. Reasonable Range of Dates During Which the Alleged Activity Occurred

The range of dates covered by this Notice is April 1, 2013 through April 1, 2018. This Notice also includes all violations of the CWA by the City which occur during and after this Notice period up to and including the time of trial.

6. The Full Name, Address, and Telephone Number of the Person Giving Notice

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch," an Internal Revenue Code § 501(c)(3) non-profit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 290 S. Main Street, #817, Sebastopol, CA 95472. River Watch is dedicated to protecting, enhancing, and helping to restore surface waters and ground waters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues raised in this Notice.

All communications should be directed to counsel identified below:

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RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with City staff to tailor remedial measures to the specific operation of the Facility and associated sewer collection system. In advance of that conversation, River Watch identifies the following issues for discussion that will advance compliance with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns:

- Determining the specific sewer collection system repairs required, and establishing deadlines for compliance;
- Requiring implementation of an effective SSO reporting and response program;
- Providing a lateral inspection and repair program;
- Ensuring the application of chemical root control complies with federal EPA or the RWQCB as well as manufacturer and Cal-OSHA requirements;
- Keeping the Sewer System Management Plan (SSMP) up-to-date and properly certified; and
- Promoting staff training and education.

CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch may use the affected watershed for recreation, swimming, fishing, hiking, photography, or nature walks. Their health, use and enjoyment of this natural resource is specifically impaired by the City's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), 33 U.S.C. § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to $53,484.00 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4.

River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the City to contact counsel for River Watch within **20 days** after receipt of this Notice to initiate a discussion regarding the allegations detailed herein. In the absence of productive discussions to resolve this dispute, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

Jack Silver

JS:lhm

Service List

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